

**FEDERATION OF LAND REFORM FARMERS OF THE PHILIPPINES AND VIC TAGLE, PETITIONERS, VS. THE COURT OF APPEALS (FIFTEENTH DIVISION), HON. PATRICIO M. PATAJO, IN HIS CAPACITY AS PRESI...***G.R. No. 88384. July 14, 1995*

Ponente: QUIASON, J.

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This is a petition for review on certiorari of the Decision dated May 16, 1989 of the Court of Appeals in CA-G.R. SP No. 17243. The Decision dismissed for lack of merit the petition for certiorari questioning the orders of the trial court, which allegedly violated the rule that a temporary restraining order issued by a court shall have a lifespan of only 20 days.

**I**

On May 10, 1988, respondent Jaime T. Torres was ordered by then Secretary Fulgencio S. Factoran of the Department of Environment and Natural Resources (DENR) to vacate a parcel of land located in Boso-Boso, Antipolo, Rizal. He refused to leave the premises, claiming that he had been in actual possession thereof for more than 30 years. Thus, his case was referred to the Secretary of Justice, who rendered Opinion No. 137, Series of 1988, holding that since private respondent had not shown any proof that the land had been validly transferred to him or that his predecessor-in-interest, Carmen Garcia, had a title to it, he could be ejected therefrom as a squatter and be prosecuted for unlawful occupation of forest lands under Section 69 of P.D. No. 705, Revised Forestry Code of the Philippines.

On the strength of said opinion, the DENR formally demanded that private respondent vacate the land. Again, he refused to heed the demand. Instead, he filed a complaint for injunction before the Regional Trial Court, Antipolo, Rizal to enjoin the DENR from ejecting him, wherein he alleged that he had a pending application for registration of title of the property (Civil Case No. 1223-A).

In its answer, DENR alleged that private respondent was squatting on a watershed and forest reservation. It further alleged that Proclamation No. 1283, which was issued on June 21, 1974 and which excluded a portion of the watershed and forest reservation in Antipolo, Rizal for townsite purposes, inadvertently included in the intended townsite the area being claimed by private respondent. It added, however, that the error had been rectified by Proclamation No. 1637 dated April 18, 1977, which designated certain portions of the municipalities of San Mateo, Antipolo and Montalban in Rizal as reserved for the Lungsod Silangan Townsite Reservation. The said area was increased to 180,000 hectares by Presidential Decree No. 1396 dated June 2, 1978, thereby embracing the areas both claimed by private respondent and petitioner Federation of Land Reform Farmers of the Philippines (FLRFP). Since the said areas had not been included in PFD LC Map No. 639 as alienable and disposable, they should be protected from all kinds of entry, occupation and destruction.

The DENR also alleged that private respondent had not exhausted all administrative remedies and that the trial

court had no jurisdiction to issue a writ of preliminary injunction as such issuance was proscribed by Section 1 of P.D. No. 605. This decree banned the issuance by courts of preliminary injunctions in cases involving concessions, licenses and other permits issued by administrative officials or agencies for the exploitation of natural resources.

On August 8, 1988, the trial court issued an order setting the hearing of the application for a writ of preliminary injunction for August 19, 1988. On August 10, 1988, the trial court, taking into account the length of time to resolve the application for a writ of preliminary injunction and to prevent the same from becoming moot and academic, issued an order for the maintenance of the status quo and restrained the defendants from ejecting private respondent.

On August 23, 1988, upon the agreement of the parties, the trial court ordered that the status quo be maintained and created a committee, composed of representatives of the court, the DENR and private respondent, to conduct a survey and ocular inspection for the purpose of pinpointing the areas allegedly titled in private respondent's name, the Marikina Watershed Reservation, the untitled disposable and alienable lands and the areas for townsite reservation under Proclamation No. 1283.

Before the issuance of said order, petitioner FLRFP, through its president, petitioner Vic Tagle, had filed a motion for intervention on the ground that it had entered into a Memorandum of Agreement with DENR for the lease of 500 hectares of the Marikina Watershed Reservation. The motion also averred that the land being claimed by private respondent was inalienable.

After private respondent failed to comment on the motion for intervention, the trial court allowed petitioner FLRFP's intervention and admitted the answer-in-intervention. However, on November 10, 1988, the trial court, noting that petitioner FLRFP's interest as a lessee was not direct but merely collateral and that such interest may be protected in a separate proceeding, denied the motion to intervene.

On November 12, 1988, petitioner FLRFP filed a motion to declare without force and effect the restraining order earlier issued by the trial court arguing that said order had long become *functus officio* because under Section 5, Rule 58 of the Revised Rules of Court a temporary restraining order has a lifespan of only 20 days and that by its failure to decide whether to grant the writ of preliminary injunction within said period, the trial court could no longer grant the said writ.

On November 28, 1988, the trial court set aside its November 10, 1988 Order on the ground that it had been issued "thru inadvertence." The Court, however, denied petitioner FLRFP's motion to declare the restraining order without force and effect, stating thus:

"xxx While it is true that a restraining order is good for twenty days, however, since the parties agreed to maintain the status quo before the incident on preliminary injunction could be resolved by the Court, the maintenance of status quo is likewise necessary since the Court has still to wait for the result of the relocation survey and ocular inspection which was directed by the Court in its order dated August 23, 1988" (Rollo, p. 26).

Hence, petitioners filed a petition for certiorari before this Court seeking to annul the Orders of August 23, 1988 and November 28, 1988 (G.R. No. 86259). The petition was referred by this Court to the Court of Appeals as there was no "special and important reason" to justify the Court's taking cognizance thereof in the first instance.

On May 16, 1989, the Court of Appeals dismissed the petition for lack of merit. The appellate court underscored the fact that it was upon the agreement of the parties that the status quo was maintained.

## II

Aggrieved by said decision, petitioners filed the instant petition raising as the main issue the question whether the trial court could extend the temporary restraining order beyond the 20-day period.

## III

The "20-day Rule" is found in Section 5, Rule 58 of the Revised Rules of Court, which provides:

"Preliminary injunction not granted without notice; issuance of restraining order.- No preliminary injunction shall be granted without notice to the defendant. If it shall appear from the facts shown by affidavits or by the verified complaint that great or irreparable injury would result to the applicant before the matter can be heard on notice, the judge to whom the application for preliminary injunction was made, may issue a restraining order to be effective only for a period of twenty days from date of its issuance. Within the said twenty-day period, the judge must cause an order to be served on the defendant, requiring him to show cause, at a specified time and place, why the injunction should not be granted, and determine within the same period whether or not the preliminary injunction shall be granted, and shall accordingly issue the corresponding order. In the event that the application for preliminary injunction is denied, the restraining order is deemed automatically vacated.

Nothing herein contained shall be construed to impair, affect or modify in any way any rights granted by, or rules pertaining to injunctions contained in, existing agrarian, labor or social legislation."

The August 8, 1988 Order explained:

"In the instant case, plaintiff seeks for the issuance of Preliminary Injunction with prayer for a restraining order to restrain defendants, their agents, representatives, employees or any person or persons acting in their behalf to eject the plaintiff; to demolish the several houses constructed thereon and the removal of the fences which kept the cattle and carabaos in the area.

It appearing from the facts shown by the verified complaint that great irreparable injury would resort (sic) to the plaintiff before the matter can be heard on notice, let the said application for preliminary injunction be set for hearing on August 19, 1988 at 8:30 o'clock (sic) in the morning, at which time and date, defendants are directed to appear in Court to show cause if any why the injunction should not be granted.

To ensure receipt of a copy of this Order, the Process Server, Isaias Leyva, is directed to serve the same personally to the defendants. Meanwhile, let summons and copy of the complaint be likewise served to the defendants" (Rollo, p. 21, Italics supplied).

Apparently, because this Order does not clearly show what acts were being restrained, the trial court issued the August 10, 1988 Order as a supplement. Thus, the said Order states in pertinent part:

"xxx. Considering that it will take time before the incident on the prayer for injunction could be resolved by the Court and in order not to make the incident moot and academic, let a status quo be ordered, and to restrain the defendants, their agents, representatives, employees or any person or persons acting in their behalf to eject the plaintiff, to demolish the several houses constructed thereon and the removal of the fences which kept the cattle and the carabaos" (Rollo, p. 22).

Counted from August 8, 1988, the temporary restraining order automatically expired on August 28, 1988, the end of the twentieth day from its issuance (*Johannesburg Packaging Corporation v. Court of Appeals*, 216 SCRA 439 [1992]). Thus, when the trial court issued the Order of August 23, 1988 directing the maintenance of the status quo upon agreement of the parties, the temporary restraining order was still in full force and effect.

Before the intervention of petitioner FLRFP was allowed, the original parties were private respondent and DENR. Be it noted that the intervention was first disallowed on the ground that the interest of petitioner FLRFP as a

lessee from DENR of a portion of the land in dispute was merely collateral. That the intervention was eventually allowed on reconsideration did not alter the fact that the interest of petitioner FLRFP is collateral.

The Memorandum of Agreement between petitioner FLRFP and DENR, as well as FLRFP's tree-planting activity, may only be implemented in the event that private respondent should fail to obtain the writ of preliminary injunction for only then may DENR eject private respondent. Under the circumstances, therefore, petitioner FLRFP's interest in Civil Case No. 1223-A is not merely contingent and expectant but also inchoate and subordinate to that of DENR's. It is not actual, direct and immediate. In *Prado v. Veridiano II*, 204 SCRA 654 (1991), we held that sublessees cannot invoke any right superior to that of their sublessor, as they do not have a clear and positive right to the protection of the ancillary relief of preliminary injunction against a third party (See also *Sipin v. CFI of Manila*, 74 Phil. 649 [1944]). By the same token, a lessee cannot have a right superior to that of his lessor over the premises in a dispute between the lessor and a third party regarding the ownership or possession of the said premises.

Ordinarily, the efficacy of a temporary restraining order is non-extendible and the courts have no discretion to extend the same considering the mandatory tenor of the Rule.

However, there is no reason to prevent a court from extending the 20-day period when the parties themselves ask for such extension or for the maintenance of the status quo.

The questioned Order of August 23, 1988 was necessary for an orderly resolution of the application for a writ of preliminary injunction. It states:

"Upon agreement of parties, the status quo is hereby maintained. As further agreed by the parties in connection with the verification, relocation or ocular inspection the Court hereby appoints a Committee which is composed of the Court Interpreter and Legal Researcher representing the Court, Geodetic Engineer Romulo Unciano representing the defendants and Junco Surveying Office representing the plaintiffs and the parties are directed to be present in the premises starting August 29, 1988 at 1:00 o'clock (sic) in the afternoon and every afternoon until it is finished.

Said Survey and ocular inspection is for the purpose of pinpointing the area allegedly titled in the name of Plaintiff Jaime Torres, the area of Marikina Watershed Reservation, the disposable and alienable area not yet titled in favor of any other person and the area for the townsite reservation pursuant to Proclamation No. 1283 now being claimed by the Federation of Land Reform Farmers and earmarked by the government for them" (Rollo, p. 23, Underscoring supplied).

Clearly then, this Order was issued to maintain the status quo while the committee ascertained facts necessary in resolving whether or not the writ of preliminary injunction should be issued. By issuing said Order, the trial court should be deemed as merely exercising its inherent power under Section 5(b), Rule 135 of the Revised Rules of Court "to enforce order in proceedings before it" in the absence of any showing that it has gravely abused its discretion in so doing (*Johannesburg Packaging Corporation v. Court of Appeals*, supra).

The resolution of the application for writ of preliminary injunction in Civil Case No. 1223-A has not been rendered moot and academic by the issuance of a preliminary injunction by the same court in Civil Case No. 1300-A. Civil Case No. 1300-A was filed by Jaime Torres and Myrna M. Torres for the cancellation of the Memorandum of Agreement between the Bureau of Forest Development (BFD), now the Forest Management Bureau (FMB) and petitioner FLRFP, and for quieting of title with restraining order and preliminary injunction. The causes of action in the two cases being distinct from each other, the issuance of the preliminary injunction in Civil Case No. 1300-A did not necessarily mean that the enforcement of the ejectment order sought to be enjoined in Civil Case No. 1223-A had also been halted. The court has still to determine the propriety of issuing a writ of

preliminary injunction in the latter case, the proceedings of which had been suspended by the institution of the instant petition. The trial court shall determine in Civil Case No. 1223-A: (1) the existence of private respondent's alleged right to the property which needed protection by an injunction; and (2) the particular acts against which the injunction is to be directed as violative of said right (*Director of Forest Administration v. Fernandez*, 192 SCRA 121, 139 [1990]). However, for an orderly administration of justice, the two cases should be consolidated.

WHEREFORE, the instant petition for review on certiorari is DENIED and the trial court is DIRECTED to consolidate Civil Case Nos. 1223-A and 1300-A and to proceed with dispatch in resolving them.

**SO ORDERED.**

Padilla, (Chairman), Davide, Jr., and Kapunan, JJ., concur.

Bellosillo, J., on leave.

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